



## SENATE BILL 281: Municipal Service District/Streets

2011-2012 General Assembly

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<b>Committee:</b>	Senate Finance	<b>Date:</b>	March 29, 2011
<b>Introduced by:</b>	Sen. Stein	<b>Prepared by:</b>	Cindy Avrette
<b>Analysis of:</b>	PCS to First Edition S281-CSRBx-18		Committee Counsel

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**SUMMARY:** *Senate Bill 281 would expand the purposes for which a city could create a municipal service district to include the conversion of private streets to public streets. The city may impose a higher property tax rate on the taxpayers within a defined service district to pay for the additional services received in that district.*

*The Senate Finance Committee considered this bill at its meeting last week, March 22<sup>nd</sup>. The Proposed Committee Substitute addresses the following issues raised at that meeting:*

- The bill's scope is effectively limited to Morrisville and Raleigh in Wake County and to Durham in Durham County.*
- The threshold of petitions from property owners seeking the conversion of private streets to public streets is increased from 50% to 60%.*
- The provisions would not apply to gated roads.*

**CURRENT LAW:** Article V, Sec. 2(4) of the North Carolina Constitution allows the General Assembly to enact *general* laws authorizing the governing board of a local governmental unit to define territorial areas and to levy additional taxes within those areas to finance a service that is provided to a greater extent in that area than is provided to the entire area of the governmental unit. The purposes for which a service district may be created are: Beach erosion control and flood and hurricane protection works; any service which the municipality may by law provide, such as placing utility wiring underground; downtown revitalization projects; transit-oriented development projects; drainage projects; sewage collection and disposal systems; lighting at interstate highway interchange ramps; off-street parking facilities; and watershed improvement projects.

Based on that provision, Article 23 of Chapter 160A authorizes a city to define a municipal service district and to levy a property tax in that district that is in addition to those levied through the city. A city may incur debt, as allowed under general law, to finance services within a service district. When there is no longer a need for the service district, the district may be abolished.

To create a district, a city must hold a public hearing on a proposed resolution. The resolution must define the service district and find that the area defined is in need of one or more of the services for which a district may be created to a demonstrably greater extent than the remainder of the city. The resolution may become effective at the beginning of a fiscal year. Once a district is created, the city must provide or let contracts for the service for which the residents of the district are being taxed within one year of the effective date of the district.

**BILL ANALYSIS:** The PCS for Senate Bill 281 reclassifies the bill as a "Public" bill because Article V, Sec. 2(4) of the North Carolina Constitution prohibits a local bill creating a special tax district.

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However, by limiting the reach of the bill to cities within counties of a certain size, the bill is effectively limited to the following municipalities: Durham, Morrisville, and Raleigh.<sup>1</sup>

Senate Bill 281 would expand the purposes for which a city could create a municipal service district to include the conversion of private streets to public streets. The bill also creates the following limitations upon the creation of a district for this purpose:

- The private road must be non-gated.
- A city must receive a petition signed by 60% of the lot owners of the area to be included within the special district requesting the city to establish the district.
- A city must be willing to accept the converted streets for perpetual public maintenance.
- The additional tax rate levied in the special district may not exceed 30% of the property tax rate currently imposed in that district in the fiscal year prior to the establishment of the district.
- After the private streets have been upgraded to meet public street standards and all of the costs have been recovered, the district must be abolished.

**EFFECTIVE DATE:** The bill would become effective when it becomes law.

**BACKGROUND:** There are 14 residential developments in the Town of Morrisville that were constructed with private streets. These 14 developments comprise about one-third of Morrisville's homes. The private streets were constructed to a lesser standard than public streets. The Town no longer approves residential developments with private streets.

Of these 14 neighborhoods, five have submitted petitions to the Town Council signed by more than 60% of the residents requesting the town to upgrade and convert the streets to publicly maintained streets. Three neighborhoods are continuing to collect petitions; the remaining seven have indicated no interest in pursuing the issue. The Town's website offers additional information on the issue and the number of petitions received for and against the creation of a municipal service district for this purpose:

<https://nc-morrisville.civicplus.com/index.aspx?NID=542>

The Town does not have the authority to expend public funds for private streets.<sup>2</sup> To address the issue brought to the Town by the residents, the Town is seeking the authority to create a municipal service district for the purpose of converting the private streets to public streets. The conversion would include the transfer of ownership of the streets, an evaluation of the condition of the streets, and the design and construction costs related to improving the private streets to meet public streets standards. The maximum tax rate proposed to accomplish this purpose is 10¢ per \$100 valuation. The Town estimates that it would take 15.2 years to recover the conversion costs for the 1.88 miles of roadway for the five neighborhoods requesting the service. If the remaining three neighborhoods are included, the Town estimates that it would take 14.3 years to recover the conversion costs for the 3.87 miles of roadway. The municipal service district would be abolished once all streets were brought up to standard and all associated costs recovered.

*S281-SMRB-27(CSRBx-18) v1*

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<sup>1</sup> Although both Wake and Mecklenburg Counties have populations that exceed 750,000, the only county that is 250,000 and over that abuts either of these two counties is Durham County.

<sup>2</sup> G.S. 153A-205 gives counties the authority to expend funds for the cost of improvements needed to bring residential streets up to State standards so they may become part of the State-maintained system. An argument may be made that cities have authority under Article 10A of Chapter 160A of the General Statutes to impose a special assessment for this purpose, but it is not clear.